

REMARKS

Claims 1-212 are pending in the application. Claims 32-67 and 130-212 have been withdrawn from this application as a result of an earlier restriction requirement. Applicant has herein amended independent claims 1, 29-31, 99 and 127-129.

Applicant submits that no new matter has been entered by way of this amendment. Support for the foregoing Amendments may be found throughout the specification, and specifically can be found at page 10. Applicant respectfully requests reconsideration of the above-identified application, in view of the following remarks.

Claim Rejection – 35 U.S.C. § 102(b)

Claims 1, 2, 6-17, 19, 24, 25, 27-31, 68, 69, 72, 76-87, 91, 92, 94-100, 104-115, 117, 122, 123 and 125-129 have been rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by Foladare et al. (US005819160A).

Independent claim 1 recites, *inter alia*:

A method for coordinating supplemental data transmissions with broadcast data transmitted by a plurality of broadcasters, the method comprising:
receiving schedule information for each of a plurality of broadcasters, the schedule information including a broadcast schedule ~~schedule of broadcast data to be transmitted by each broadcaster at predetermined times~~;
identifying, from the received schedule information, broadcast data for transmission by a first broadcaster ~~at a predetermined time~~;
determining supplemental digital data to be presented to listeners of the broadcast data on a digital data receiver; and
transmitting at least a portion of the supplemental digital data to the first broadcaster prior to the predetermined time of said broadcaster.

Applicant respectfully submits that all amended claims are patentably distinct from the cited reference. Specifically, Applicant submits that all amended claims are patentable over Foladare. Independent claims 1, 29-31, 99 and 127-129 have been amended for

clarification purposes. Specifically, the term “broadcast” was relocated to clarify that the schedule information received is that of an already programmed broadcast. The statement “predetermined times” has been removed as suggested by the Examiner. (See Final Office Action, June 29, 2006, page 3). And finally, the last portion of the claim has been amended to include “of said broadcaster”, to clarify that the transmission of supplemental data must take place before that broadcaster’s original program begins. (See specification, page 27).

Applicant respectfully submits that Foladare does not teach, disclose or suggest the elements of the claimed invention. More specifically, Applicant submits that Foladare does not disclose at least the elements of “determining supplemental digital data to be presented to listeners of the broadcast on a digital data receiver,” and “transmitting at least a portion of the supplemental digital data to the first broadcaster prior to the predetermined time of said broadcaster,” as recited in independent claims 1, 29-31 and 127-129, where “transmitting” refers to transfer of data between a broadcast facility and a centralized series of sub-systems including, but not limited to, a content management sub-system, an ad placement sub-system, a sales order and traffic management sub-system, a data-casting sub-system, and a transmission management subsystem, hereafter “data-casting system”, and “supplemental digital data” refers to digital data other than the audio data of the “playlist” (See specification, pages 9-32).

The Foladare reference merely discloses a subscription system for listeners of digital radio devices and providers of digital audio content. Foladare’s system discloses a two-way point-to-point system in which a client device initiates a session with a server system to negotiate for some data, in this case a playlist of audio data. The audio data envisioned by Foladare is file-based data that is downloaded to the client device; after the client connects to the

server the playlist begins with the first song listed and concludes with the last song on the list. Foladare makes no provision for supporting “streamed” data where the audio is scheduled at a predetermined time by a broadcaster and played continuously in real time simultaneously to a group of listeners who drop in and out of the broadcast. In Foladare, the listeners define their own playlists, the broadcaster is no more than a resource for audio content, rather than a producer of original programming. Finally, Foladare simply does not envision the concept of supplemental digital data (refer to pages 9-12 of the specification for a definition of supplemental digital data).

This is quite distinct from the pending claims of this application. In this application, the claimed invention is directed to a scheduling system for broadcasting supplemental data to coincide with both analog and digital audio broadcasts. (See specification, pages 4-7). The scheduling information is set by the broadcasters not the listeners. The claimed invention coordinates the scheduling of supplemental data among a plurality of broadcasters. The information flow is between said broadcasters’ facilities and the data-casting system. The pending claims are not involved in the transmission of supplemental and non-supplemental data between the broadcaster and the listener, rather, they relate only to transmission between the broadcasters and the data-cast system. (See specification, page 15 lines 15-21). The scheduling information does not determine the timing of the transmission of the audio being broadcast as part of a playlist (regardless of who has defined it). The scheduling information affects the supplemental data that is broadcast. Finally, the supplemental data scheduling is intended to work with a one-way point-to-multipoint system where data is streamed in real time such as is found in a radio broadcasting system.

In contrast to the elements recited in independent claims 1, 29-31, 68, 96-99 and 127-129, Foladare does not disclose a method for determining types of supplemental data to be transmitted. Foladare makes no mention of the concept of program associated data as well as independent data, concepts integral to a supplemental data system as is described in the present invention. The supplemental data can be associated data, where it relates to the broadcast, i.e., digitally displaying song title/singer information. Conversely, the supplemental data can be independent data of the broadcast, i.e., weather report or sports scores, which are completely unrelated to the songs or other audio data broadcasted. Once the supplemental data is determined it is scheduled to be transmitted contemporaneously with the audio broadcast. (See, specification, page 10, lines 20-25 through page 11, lines 1-15).

Foladare merely discloses a radio subscription system which allows the subscriber to select a playlist of audio data from a closed content resource. (See, Foldare et al. claim 1 and col. 1, lines 66-67, col. 2, lines 1-7). The present application, however, discloses a method, apparatus, and computer readable medium encoded with said method for “coordinating supplemental data transmissions” from an infinite resource of broadcasters. (See specification). The instant application provides a system where supplemental digital data is coordinated to be transmitted in conjunction with one or more broadcasters. The origin of this information has no connection to the listener/user/subscriber, as is the case in Foladare. There is no control by the listener and when they listen to their radio, the stream of information transmitted is in real time and not dependent on downloading a playlist. It is the data-casting system, which coordinates the supplemental digital data to be transmitted, for a plurality of broadcasters, which is completely independent of the potential listener.

The flow of information is inapposite to Foladare. The Foladare reference is simply a subscription radio, where the listener/user subscribes to hear the playlist they created, which they must download, not simply turn on a radio station. Foladare is not a broadcasting system. It is a two-way point-to-point transmission system. The present application however specifically pertains to the broadcaster or broadcasters who program content to be broadcast on behalf of the listeners. Listeners choose to "tune-in" to the program content if they find a particular organization and selection of the content to their liking. The content is streamed in real-time, and is transmitted whether or not there are listeners tuned to the broadcast. Listeners play no role other than to hear or view the content. The data-casting system of the presented claims is intended to support supplemental data transmissions for this type of broadcasting system.

Applicant submits that independent claims 1, 29-31, 68, 96-99 and 127-129, are patentably distinct from the cited reference for at least this reason. Further, Applicant submits that claims 2, 6-17, 19, 24, 25, 27, 69, 72, 76-87, 91, 92, 94, 95, 100 and 104-115, which are directly or indirectly dependent from independent claims 1, 29-31, 68, 96-99 are also patentably distinct from the cited reference for at least this reason. Therefore, Applicant respectfully requests withdrawal of this ground of rejection.

Claim Rejection – 35 U.S.C. § 103(a)

Dependent claims 3-5, 18, 20-23, 26, 70-75, 88-90, 93, 101-103, 116, 118-121 and 124 have been rejected under 35 U.S.C. § 103(a), as being allegedly obvious over Foladare et al. (US005819160A). Applicant submits that claims 3-5, 18, 20-23 and 26 (directly or indirectly dependent on independent claim 1), claims 70-75, 88-90 and 93 (directly or indirectly

dependent on independent claim 68) and claims 101-103, 116, 118-121 and 124 (directly or indirectly dependent on independent claim 99) are patentably distinct from the cited reference for the reasons stated above. Accordingly, Applicant requests withdrawal of this ground of rejection.

CONCLUSION

Applicant respectfully requests reconsideration in view of the foregoing amendments and remarks, respectfully submits that the claims as presented herein are allowable over the art of record and that the application is in condition for allowance, which action is earnestly solicited.


The Examiner is invited to contact the undersigned at the telephone number below, should that in anyway facilitate prosecution.

The Commissioner is hereby authorized to charge any additional fees which may be required for this paper, or credit any overpayment, to Deposit Account No. 13-4500, Order No. 4232-4002.

Respectfully submitted,
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By: _____


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